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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,171	05/16/2005	Hisao Fukui	S001-5528 (PCT)	2401

40627 7590 04/26/2007  
ADAMS & WILKS  
17 BATTERY PLACE  
SUITE 1231  
NEW YORK, NY 10004

EXAMINER
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LE, HUYEN D

ART UNIT	PAPER NUMBER
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3751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/535,171

Applicant(s)

FUKUI ET AL.

Examiner

Huyen Le

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 6-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6-13 and 15-24 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8-12, 15-19, 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hashimoto et al (5,048,990).

The Hashimoto et al reference discloses a retractable-nib writing tool (Fig. 1-9) having a retractable writing body 8 in a shaft tube 1 and having a sealing lid 4 and a sealing tube 3 which seal the writing nib 8c of the writing body 8 in association with the forward and backward movements of that writing body, wherein: the sealing lid 4 and a guide tube 11 fixed to the writing body are linked by a plurality of thin line portions 15 (16 or 17), the sealing lid 5 and thin line portions 15 (16 or 17) are formed integrally, and the sealing lid 4 is opened and closed relative to the sealing tube by the forward and backward movements of the thin line portions 15; and at least one thin line portion 15 (i.e. a middle portion of line 15 having a knot 15a) out of the plurality of thin line portions 15, which is advanced by the forward motion of the guide tube 11, is regulated (by a hole formed in the larger diameter part of cylinder 3 and the knot 15a served as a stopper) and other thin line portions 15 (front portions of lines 15 near the front end of member 3 as shown in Fig. 3) can be bent and deformed.

Regarding claim 8, the sealing lid 4 turns to open the opening at the forward end of the sealing tube 3 as the forward movement of one thin line portion 15(a portion of line 15 near knot 15a and located inside the hole at the larger diameter portion of member 3) relative to the sealing tube 3 is restricted and the rest of the thin line portions 15 (behind the knot portion 15a) are permitted when the writing body 8 is to move forward.

Regarding claim 9, out of the plurality of thin line portions 15, the thin line portion whose forward movement is to be regulated is provided with a bulged portion (i.e. the knotted portion 15a), and the outer circumferential part of the sealing tube is provided with engaging step portions (the larger diameter portion of member 3) to engage with the bulged portion (knotted portion 15a) when the writing body moves forward.

Regarding claim 10, the sealing lid 4 and the thin line portions 15 are integrally formed.

Regarding claim 11, a springy member 12 is disposed between the sealing tube 3 and the guide tube 11 and, when the writing body 8 is in a retracted position, the plurality of thin line portions keep the sealing lid in a state of being pressed against the sealing tube by the urging of the springy member 12.

Regarding claim 12, the plurality of thin line portions 15 are arranged between the guide tube 11 and the sealing lid 4 so that, when the writing body 8 is in the retracted position, the direction of the force working from the plurality of thin line portions 15 on the sealing lid 4 is identical with the axial direction of the shaft tube.

Regarding claim 15, the tips of the tips of the plurality of thin line portions 15 and 7 are arranged at equal intervals along the outer circumferential part of the sealing lid.

Regarding claim 16, a soft member 5 is disposed in a position where the sealing lid 4 is opposite the sealing tube 3.

Regarding claim 17, the Hashimoto et al reference discloses a writing tool comprising: a tubular member 1 having an open front end; a writing body 8 axially slidable in the tubular member 1; a sealing tube 3 disposed in the tubular member 1; a sealing lid 4 disposed forwardly of the front end of the sealing tube and being movable to open and close the front end of the sealing tube; a guide tube 11 slidably disposed in the tubular member 1 in contact with the writing body and through which extends a portion of the writing body; a spring 12 disposed in the tubular member 1 and interposed between the sealing tube and the guide tube to resiliently urge the guide tube and the writing body rearwardly to normally position the writing body in its rearward position; and a plurality of flexible elongate members 15 each connected at a front end thereof to the sealing lid, one or more of the flexible elongate members 15 being connected to the guide tube so that when the guide tube 11 moves rearwardly the one or more flexible elongate members 15 pull the sealing lid 4 to close the front end of the sealing tube 3, and another of the flexible elongate members 15 being slidable relative to the guide tube 11 and engagable with the sealing tube 3 during forward movement of the writing body 8 to restrict forward movement of the another flexible elongate member 15 (by the hole in the member 3 with the knot 15a) to permit the sealing lid 4 to open the front end of the sealing tube 3.

Regarding claim 19, the plurality of flexible elongate member are arranged at equal intervals around the sealing lid.

Regarding claim 21, the another flexible elongate member 15 has an enlarged portion 15a; and the sealing tube 3 has an engaging portion (a larger diameter portion 9 of member 3) positioned to engage with the enlarged portion during forward movement of the writing body to thereby prevent further forward movement of the another flexible elongate member while the writing body continues forward movement to its forward position.

Regarding claim 22, the engaging portion of the sealing tube 3 comprises a step portion (see the larger diameter portion of member 3 which engages with knot 15a in Fig. 8) that protrudes from an outer side face of the sealing tube 3.

Regarding claim 23, the writing tool includes a knocking member 14 connected to a rear end of the writing body 8 and projecting outwardly through an open rear end of the tubular member.

Regarding claim 24, the flexible elongated members comprises flexible lines.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto et al (5,048,990).

Although the Hashimoto et al reference does not specifically disclose the sealing force between the sealing lid 4 and the sealing tube 3 being 50-100 kPa and the water vapor transmissivity of a material of the sealing tube or sealing lid, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select a sealing force and a material having certain properties for the sealing lid and the sealing tube of the Hashimoto writing tool within a certain range to best fit a particular writing tool design and to optimize the performance. See *In re Aller*, 105 USPQ 233, using the optimum or workable ranges involves only routine skill in the art.

5. Claims 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto et al (5,048,990).

Although the Hashimoto et al reference does not specifically disclose a lubricant applied to the plurality of thin line portions, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ lubricant on the plurality of thin line portions of the Hashimoto et al writing tool to facilitate the movement of the line portions, wherein doing so would be a matter obvious design choice.

#### ***Allowable Subject Matter***

6. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***


7. Applicant's arguments on 02/09/2007 with respect to claims 1, 8 and 17 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Huyen Le  
Primary Examiner  
Art Unit 3751

HL